

Honorable Marsha J. Pechman

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON, AT SEATTLE**

\* \* \* \* \*

BOARD OF TRUSTEES OF THE  
EMPLOYEE PAINTERS' TRUST; BOARD  
OF TRUSTEES OF THE RESILIENT FLOOR  
COVERING PENSION FUND; BOARD OF  
TRUSTEES OF THE DISTRICT COUNCIL  
NO. 5 APPRENTICESHIP AND TRAINING  
TRUST FUND; BOARD OF TRUSTEES OF  
THE FINISHING TRADES INSTITUTE;  
PAINTERS AND ALLIED TRADES LABOR-  
MANAGEMENT COOPERATION  
INITIATIVE; WESTERN WASHINGTON  
FLOOR COVERING INDUSTRY FUND;  
INTERNATIONAL UNION OF PAINTERS  
AND ALLIED TRADES DISTRICT  
COUNCIL NO. 5,

Plaintiffs,

vs.

D CIULLA FLOORING LLC, a dissolved  
Washington limited liability company;  
DOMINIC JOHN CIULLA dba D CIULLA  
FLOORING; DOMINIC JOHN CIULLA, an  
individual; DOES & ROES I-X,

Defendants.

CASE NO.: 2:19-cv-01479-MJP

**ORDER**

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*Counsel for the Plaintiffs*

1 This matter comes before the Court on Plaintiffs' ex parte motion for leave to serve  
2 Defendants D Ciulla Flooring LLC, a dissolved Washington limited liability company, Dominic  
3 John Ciulla doing business as D Ciulla Flooring, and Dominic John Ciulla, individually, by  
4 publication and by mail. Having thoroughly considered the briefing and the relevant record, the  
5 Court hereby GRANTS the motion for the reasons explained herein.

6 A plaintiff may, among other methods, serve a defendant located in the United States by  
7 "following state law for serving a summons in an action brought in courts of general jurisdiction  
8 in the state where the district court is located or where service is made." Fed. R. Civ. P. 4(e)(1).  
9 In Washington, service by publication is permitted under limited circumstances such as when a  
10 defendant who is a resident of Washington (1) cannot be found within the state, despite the  
11 plaintiff's diligence, and (2) "keeps himself or herself concealed" within the state "with intent to  
12 . . . avoid the service of a summons." *See* Wash. Rev. Code § 4.28.100. Service by mail is  
13 permissible when the circumstances would justify service by publication and the defendant is  
14 likely to receive actual notice. Wash. Super. Ct. Civ. R. 4(d)(4); *Rolf v. United States*, 2007 WL  
15 445449, slip op. at 3 (W.D. Wash. 2007).

16 Plaintiffs have made diligent efforts to serve Defendants at multiple addresses in  
17 Washington. (*See* Dkt. Nos. 6-1 – 6-4.) Plaintiffs have discovered—through business cards, check  
18 stubs, business entity records, contractor license records, and motor vehicle registrations—  
19 multiple addresses, phone numbers, and email addresses that Defendants may be reached at. (*Id.*)  
20 Plaintiffs have visited these addresses on multiple occasions, spoken to neighbors and current  
21 residents, called phone numbers, and attempted to email Defendants. (*Id.*) Plaintiffs have made  
22 diligent efforts to find Defendants for in-person service, despite being unsuccessful, and  
23 Plaintiffs' extensive efforts tend to indicate that Defendants are concealing themselves in order  
24 to avoid service.

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1 For the foregoing reasons, Plaintiffs' *ex parte* motion for leave to serve Defendants by  
2 publication and mail (Dkt. No. 6) is GRANTED.

3 Further, on October 24, 2019, Plaintiffs sent a copy of the Summons and Complaint to  
4 Defendants via USPS Certified Mail, Return Receipt Requested, to the address 23210 57th Ave  
5 W, PO Box 445, Mountlake Terrace, WA 98043-0445, which had been listed as a contact address  
6 for the D Ciulla Flooring contractor's license with the Washington Department of Labor and  
7 Industries. (Dkt. No. 6-4.) The address is a Post Office Box at the USPS Post Office location in  
8 Mountlake Terrace. The return receipt was signed and returned, with a postmark dated October  
9 30, 2019. (*Id.*) The signature on the return receipt closely resembles Dominic Ciulla's signature  
10 on the labor agreement. (*Compare* Dkt. No. 6-4 with Dkt. No. 6-5.) Thus, Plaintiffs successfully  
11 accomplished service by mail on the Defendants on October 30, 2019.

12  
13 Dated this 14th day of November, 2019.

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17 Marsha J. Pechman  
18 United States District Judge  
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